

DISTRICT 6

2000 ANNUAL PRO BONO REPORT AND PLAN

This Annual Pro Bono Report and Plan is made pursuant to Rule 6.5 of the Indiana Rules of Professional Conduct. The goals of this plan are as follows:

- (1) To enable Indiana attorneys to discharge their professional responsibilities to provide pro bono services;
- (2) To improve the overall delivery of civil legal services to persons of limited means by facilitating the integration and coordination of services provided by pro bono organizations and other legal assistance organizations throughout the State of Indiana;
- (3) To ensure statewide access to high quality and timely pro bono civil legal services for persons of limited means by (i) fostering the development of new pro bono programs where needed and (ii) supporting and improving the quality of existing pro bono programs;
- (4) To foster the growth of a public service culture within the Indiana Bar which values pro bono publico service;
- (5) To promote the ongoing development of financial and other resources for pro bono organizations in Indiana;

Hallmarks of an effective pro bono program

Ultimately, the measure of success for a legal services program, whether a staffed or volunteer attorney program, is the outcome achieved for clients, and the relationship of these outcomes to clients' most critical legal needs. The following hallmarks are characteristics which enhance a pro bono program's ability to succeed in providing effective services addressing clients' critical needs.

1. **Ownership by the local bar association.** The association believes the program is necessary and beneficial. The bar association makes a dual commitment: to management of the program and to participation in the program.
2. **Centrality of client needs.** The mission of the program is to provide high quality of free legal services to low-income persons through volunteer attorneys. Client needs drive the program, balanced by the nature and quantity of resources available. The staff and volunteers are respectful of clients and sensitive to their needs.
3. **Program priorities.** The program engages in a priority setting process which determines what types of problems the program will address. Resources are allocated to matters of greatest impact on the client and are susceptible to legal resolution. The program calls on legal services and other programs serving low-income people to assist in this process.
4. **Direct representation component.** The core of the program is direct representation in which volunteer attorneys engage in advocacy on behalf of low-income persons. Adjunct programs such as advice clinics, pro se clinics and paralegal assistance are dictated by client needs and support the core program.
5. **Coordination with all legal services program.** The program works cooperatively with the local funded legal services program. The partnership between the legal services program and the local bar association results in a variety of benefits including sharing of expertise, coordination of services, and creative solutions to problems faced by the client community.
6. **Accountability.** The program has mechanisms for evaluating the quality of service it provides. It expects and obtains reporting from participating attorneys concerning the progress/outcome of referred cases. It has the capability to demonstrate compliance with requirements imposed by its funding source(s) and it has a grievance procedure for the internal resolution of disputes between attorneys and clients.
7. **Continuity.** The program has a form of governance which ensures the program will survive changes in bar leadership, and has operational guidelines which enable the program to survive a change in staff.
8. **Cost-effectiveness.** The program maximizes the level of high quality legal services it provides in relationship to the total amount of funding received.

9. Minimization of barriers. The program addresses in a deliberate manner linguistic, sensory, physical and cultural barriers to clients= ability to receive services from the program. The program does not create undue administrative barriers to client access.

10. Understanding of ethical considerations. The program operates in a way which is consistent with the Rules of Professional Conduct; client confidentiality is assured and conflicts of interest are avoided.

11. ABA Standards. The program should be designed to be as consistent with the ABA Standards for Programs Providing Civil Pro Bono Legal Services to Persons of Limited Means as possible.

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MISSION STATEMENT

To develop and implement a plan to provide equal access to justice for Indiana residents of limited means in District 6 by creating, expanding and promoting opportunities for all members of the legal profession to provide pro bono legal services in accordance with Rule 6.5.

1. Abstract -

Judge Jack L. Brinkman was named the Supreme Court Designee for the Sixth District Pro Bono Committee. Judge Brinkman attended the Pro Bono conference held in late August 1999 which explained the background, structure and mission of the new pro bono initiative for the State of Indiana. Immediately thereafter Judge Brinkman set about the task of forming the Sixth District Pro Bono Committee.

Having conferred with the Circuit Court Judge in each county of the Sixth District, Judge Brinkman was able to obtain a member of each county's bar association to sit on the committee. Also, as suggested in Rule 6.5, the legal assistance provider was named to the committee together with one community-at-large representative. In May of 2000, an additional community-at-large representative who has been a service recipient has been added to the committee. Also, in June 2000, the Henry County representative resigned from the committee due to time constraints and a new committee member was added.

An organizational meeting was conducted in Muncie, Indiana, in September, 1999, during which members were introduced to one another and the task at hand was explained. With the November 1, 1999 report due date near at hand, the committee set its first working meeting for October 12, 1999. Ninety percent attendance was achieved at the October meeting and each representative submitted a report regarding legal services in their respective areas. Said information was compiled by Supreme Court Designee, Judge Jack L. Brinkman, and is included as our initial report. It was agreed by the committee that work on the 2000 Annual Pro Bono Report and Plan would commence in early January of the year 2000. The committee has been meeting monthly during this calendar year and a Mission Statement has been developed and the governance standards for the committee have been incorporated in the 2000 Report and Plan. A description of current legal services for District 6 is included in detail under subsection C.

The Legal Services Organization of Indiana, through its Anderson office, provides services to all six counties in District 6 but is clearly understaffed and underfunded to meet the needs of the indigent residents. Some bar association plans still exist while others have come and gone based upon the particular leadership of the county bar at any point in time.

Specific individual programs exist in Madison and Delaware County as described in the Plan. Grant County has submitted an attorney by attorney report of pro bono services. The small counties of District 6 reported that they operated on an informal, as needed, volunteer basis with Blackford County expressing a concern about Aforced@ programs and Jay County has yet to report to the committee.

When the committee began its work again in January 2000, the areas of focus included defining in clear terms what services qualify as pro bono and a plan for increased participation in meeting the ethical obligation of each attorney and judge in the Sixth District and coordinating a system of delivery of pro bono services in an efficient and effective manner. Each area has been addressed by a plan primarily focused on obtaining the services of a Plan Administrator and procuring funding for specialized legal services and increasing awareness and participation by all judges and full-time prosecuting attorneys in the Sixth District. Future issues to be addressed by the committee for the remainder of the year 2000 include efforts to increase participation by financial institutions in the District in participating in the IOLTA program as well as increased attorney participation. Also the committee will continue to focus on the specific duties that the Plan Administrator will assume in carrying out the District's plan and the committee's specific role in evaluating that role.

B. Data

1. Membership on District Committee

SUPREME COURT DESIGNEE

- 1) Judge Jack L. Brinkman
Madison Superior Court, Division 2
16 East 9th Street, Box 25
Anderson, Indiana 46016
Telephone: (765) 641-9627
Fax: (765) 608-9711

BLACKFORD COUNTY

- 2) J. Nicholas Barry
211 North High Street
PO Box 150
Hartford City, Indiana 47348-0150
Telephone: (765) 348-1142
Fax: (765) 348-1418

DELAWARE COUNTY

- 3) Rebecca Bruce
106 East Washington Street
Muncie, Indiana 47305
Telephone: (765) 286-1776
Fax: (765) 286-5711
E-Mail: Bruces@iquest.net

GRANT COUNTY

- 4) Warren Haas
514 South Washington Street
Marion, Indiana 46953
Telephone: (765) 662-7777
Fax: (765) 662-7796
E-Mail: haas@nxco.com

HENRY COUNTY

- 5) Mary G. Willis
Probate Commissioner
Henry Circuit Court
101 South Main Street
New Castle, Indiana 47362
Telephone: (765) 529-1403
Fax: (765) 521-7046

JAY COUNTY

- 6) Max C. Ludy, Jr.
123 North Meridian Street
Portland, Indiana 47371
Telephone: (219) 726-9326

MADISON COUNTY

- 7) D. Eric Hall
One Citizens Plaza Suite 200
800 Main Street
Anderson, Indiana 46016
Telephone: (765) 644-2891
Fax: (765) 644-2894
E-Mail: hallde@iquest.net

RANDOLPH COUNTY

- 8) Jason Welch
111 North Main Street
Winchester, Indiana 47394
Telephone: (765) 584-4171

LEGAL ASSISTANCE PROVIDER

- 9) Sean T. Newberry
Legal Services Organization of
Indiana, Inc.
1106 Meridian Plaza Suite 215
Anderson, Indiana 46016
Telephone: (765) 644-2816 Ext.21
1-800-383-3541
Fax: (765) 642-2473

COMMUNITY AT-LARGE REPRESENTATIVE

- 10) Teresa Clemons (A Better Way)
PO Box 734
Muncie, Indiana 47308
Telephone: (765) 747-9107
Fax: (765) 281-2740
E-Mail: tclemmons@netdirect.net

COMMUNITY AT-LARGE REPRESENTATIVE

- 11) Gordon Stafford
655 North Elm
Muncie, Indiana 47305
Telephone: (765) 284-8435

2. Governance -

The District Judge designated by the Supreme Court shall serve as Chair of the Committee. Committee members shall serve a two year term with initial members terms to expire December 1, 2001. Vacancies or successor terms of Committee members shall be filled or approved by the Committee Chair after consideration of input or recommendations from other Committee members, District Judges or District bar associations and pro bono service providers.

3. History/Background -

SEE ANNUAL REPORT

4. Plan Administrator -

BEING SOUGHT AS PER 2000 PLAN

5. Monitoring Role -

- (a) Quality of services provided:** Through client questionnaires and service provider reports to be developed by the Plan Administrator.
- (b) Quantity:** All to be calculated and maintained by forms to be developed by the Plan Administrator and approved by the committee in cooperation with the Legal Services Organization of Indiana, Inc.
- (c) How will you record and evaluate costs associated with achieving goals:** Through periodic reports submitted by the Plan Administrator to the committee.
- (d) How will you collect and record client stories:** Through forms to be developed by the Plan Administrator and approved by the committee in accordance with the Legal Services Organization of Indiana, Inc.

3. 2000 Annual Report: Existing Services, Programs, and Funding Sources -

MADISON COUNTY

1. Legal Services Organization of Indiana. In Madison County, the delivery of legal services to low income persons is primarily coordinated by Legal Services Organization of Indiana (Anderson Office). Legal Services Organization of Indiana (LSOI) serves low income persons in civil legal matters with incomes and resources below the federal poverty guidelines. Presently the office has one full time attorney, three paralegals, a nursing home ombudsman and two support staff. Another attorney is on medical leave. Approximately 30 percent of the office's caseload involves residents of Madison County. The priority areas for LSOI Anderson Office are public benefits, abusive divorces, housing matters, educational issues and consumer law. The requests for assistance far exceed the ability of staff to provide services. About 345 cases involving Madison County residents were opened by this office in 1998. Many others received advice only and a large percentage did not receive services because of staff and funding shortages. Funding sources for the LSOI Anderson Office are the Legal Services Corporation, United Way of Madison County and Lifestream (Area 6 Agency on Aging).

B. Pro Bono Referral Program. In those cases where LSOI is unable to provide services to client-eligible persons, LSOI has partnered with the Madison County Bar Association to establish a pro bono referral program. Approximately 50 of the 120 attorneys in Madison County participate in the referral program. About 30 of these lawyers actively take cases and typically each attorney handles one to two cases annually. LSOI determines the financial eligibility of persons needing assistance and provides a short overview of the case to the participating private attorney. The private attorney provides services at no charge and communicates with LSOI upon completion of the case. Approximately 50 cases were handled in 1998 by members of the Madison County Bar through this effort. LSOI funds this project.

3. Civil Public Defenders. The Madison County Unified Courts employ two part-time civil public defenders. These attorneys provide representation in child support and visitation matters, primarily when indigent parents are facing the possibility of incarceration. They also provide representation to low income persons involved in mental health detention and commitment proceedings. Eligibility is determined by the presiding judge based upon the judge's determination on whether the person can afford representation. In 1998, the two part-time civil public defenders handled about 360 cases. They are paid through an appropriation from Madison County.

4. Other Assistance. In addition to the services described above, private attorneys in the county handle matters for individuals as well as not-for-profit organizations and churches on a pro bono basis. The extent of these voluntary services are not known. Most of the non-profit organizations serving the needs of low income persons attempt to include an attorney on their board of directors or otherwise establish a relationship with a member of the bar. Depending upon the situation, the attorney would be providing legal assistance at no charge or for a fee based upon the organization's ability to pay.

EXISTING SERVICE PROGRAM

Service/Program Name: Legal Services Organization of Indiana (Anderson Office)

Mailing Address: 1106 Meridian Plaza, Suite 215, Anderson, Indiana 46016

Phone: (765) 644-2816

Contact Person: Sean Newberry **Title:** Managing Attorney

Sponsoring Agency: Legal Services Organization of Indiana **Phone:** (317) 631-9410

Agency Director: Norman Metzger

Service/Program Information

Target Population: Low income persons needing civil legal assistance

Eligibility Requirements: Federal poverty guidelines

***Estimate # of persons Served or Impacted:** _____

Service Area: Blackford, Delaware, Grant, Henry, Jay, Madison, Randolph and Tipton Counties

Type of Service/Program:

***Estimate of Expense per Year:** _____

Funding Source(s): Legal Services Corporation, United Way

Service/Program Description: Organization provides direct representation, advice and referral in civil legal matters. Organization also coordinates, in cooperation with the Madison County Bar Association, a pro bono referral program.

How does this organization participate in the coordination of services and what role do they play in the development of the plan? The managing attorney of Legal Services Organization of Indiana (Anderson Office) shall serve on the District Pro Bono Committee and be active in plan development. LSOI is the primary coordinator of civil legal services to low income persons in Madison County.

EXISTING SERVICE PROGRAM

Service/Program Name: Madison County Pro Bono Project

Mailing Address: Madison County Pro Bono Project, Legal Services Organization of Indiana, Inc.
1106 Meridian Plaza, Suite 215, Anderson, Indiana 46016

Phone: (765) 644-2816; 1-800-382-3541 (within Indiana); Fax: (765) 642-2473

Contact Person: Sean Newberry **Title:** Pro Bono Coordinator

Sponsoring Agency: Legal Services Organization of Indiana, Inc. (main office in Indianapolis; branch offices in Anderson, Bloomington, Evansville, and New Albany)

Phone: (317) 631-9410; FAX: (317) 631-9773

Agency Director: Norman Metzger, Executive Director of LSOI

Service/Program Information

Target Population: People in need of civil legal assistance whose income is within 125% of the Federal Poverty Income Guidelines

***Estimate # of persons Served or Impacted:** In 1998, 50 people were served.

Service Area: Madison County

Type of Service/Program:

***Estimate of Expense per Year:** _____

Funding Source(s): Current sources are the Madison County United Way and the Legal Services Corporation

Service/Program Description: The **Madison County Pro Bono Program** is by far the biggest program in District 6. At last count, nearly fifty attorneys comprised our roster. Some of these attorneys, however, have volunteered for areas of law for which our office has few requests for assistance, such as land contracts. The areas of law served include: family law (divorce w/abuse), foreclosures/land contract, consumer issues.

How does this organization participate in the coordination of services and what role do they play in the development of the plan? LSOI-Anderson does the initial intake of requests for assistance. It also maintains the roster of Pro Bono Attorneys and has provided Continuing Legal Education for Madison County Bar members who agreed to take two cases per year. LSOI has sheets from its pro bono attorneys with names, areas of practice, the cases assigned to the attorneys, and the dates on which the cases were assigned. In short, LSOI has the inventory of attorneys and the case counts.

EXISTING SERVICE PROGRAM

Service/Program Name: Grant County Pro Bono Project

Mailing Address: Grant County Pro Bono Project, Legal Services Organization of Indiana, Inc.
1106 Meridian Plaza, Suite 215, Anderson, Indiana 46016

Phone: (765) 644-2816; 1-800-382-3541 (within Indiana); FAX: (765) 642-2473

Contact Person: Sean Newberry **Title:** Pro Bono Coordinator

Sponsoring Agency: Legal Services Organization of Indiana, Inc. (main office in Indianapolis; branch offices in Anderson, Bloomington, Evansville, and New Albany)

Phone: (317) 631-9410; FAX: (317) 631-9773

Agency Director: Norman Metzger, Executive Director of LSOI

Service/Program Information

Target Population: People in need of civil legal assistance whose income is within 125% of the Federal Poverty Income Guidelines

***Estimate # of persons Served or Impacted:** _____

Service Area: Grant County

Type of Service/Program:

***Estimate of Expense per Year:** _____

Funding Source(s): Legal Services Corporation

Service/Program Description: The Grant County Pro Bono Program is still in its infancy. Right now, it has only three members. Once fully implemented, the Madison County Program would provide the model for the Grant County Program.

How does this organization participate in the coordination of services and what role do they play in the development of the plan? LSOI-Anderson would process the initial intake of requests for assistance and maintains the roster of Pro Bono Attorneys. We would strive to provide Continuing Legal Education for those attorneys who agree to take two cases per year. LSOI has sheets from its pro bono attorneys with names, areas of practice, the cases assigned to the attorneys, and the dates on which the cases were assigned. In short, LSOI is poised to keep track of the attorney inventory and the case counts.

EXISTING SERVICE PROGRAM

Service/Program Name: Madison County Civil Public Defenders

Mailing Address: Madison County Government Center c/o Court Administrators Office, 16 East 9th Street, Anderson, Indiana 46016

Phone: (765) 641-9503

Contact Person: Landoll Sorrell **Title:** Court Administrator

Sponsoring Agency: Madison County Unified Courts **Phone:** (765) 641-9503

Agency Director: Jack L. Brinkman, Chief Judge

Service/Program Information

Target Population: Indigent persons facing incarceration or detention in civil legal matters

Eligibility Requirements: Insufficient resources and income to employ counsel as determined by presiding judge

***Estimate # of persons Served or Impacted:** 360

Service Area: Madison County

Type of Service/Program:

***Estimate of Expense per Year:** \$30,000

Funding Source(s): Madison County

Service/Program Description: Representation to indigent persons in child support and mental health proceedings where loss of liberty is a possible outcome.

How does this organization participate in the coordination of services and what role do they play in the development of the plan? Judge Jack Brinkman of the Madison County Unified Courts serves on the District Pro Bono Committee, but the civil public defenders are not directly involved.

DELAWARE COUNTY

1. Legal Services Organization of Indiana. The Anderson office of the Legal Services Organization of Indiana (LSOI) provides legal services to low income persons in Delaware County. LSOI serves low income persons in civil legal matters with incomes below the federal poverty guidelines. The priority areas for LSOI are public benefits, abusive divorces, housing matters, educational issues and consumer law. In the area of abusive divorces, LSOI and A Better Way Women's Shelter work together to provide legal representation to women who are victims of domestic violence. In 1998, about 345 cases were opened by this office for Delaware County residents. LSOI has limited staffing and resources making it impossible for LSOI to provide services to all low income individuals who need services in Delaware County.

2. Muncie Bar Association Legal Aid Program. The Muncie Bar Association has a Legal Aid Program which endeavors to provide legal aid to homeless individuals. On the first Wednesday of each month, one attorney in the bar association is present at the Drop In Center sponsored by Comprehensive Mental Health. Presently, the only attorney providing these services at the Drop In Center is Richard Hughes. He handles problems as he is able and/or refers individuals to other agencies or attorneys for further services. In 1998, the Program provided pro bono services to approximately 30 people. This program is unfunded at present and the attorney(s) involved are not compensated in any manner.

3. Christian Ministries Pro Bono Legal Aid Program. Christian Ministries of Delaware County is a not-for-profit organization which provides a variety of services to residents of Delaware County. One service is its Pro Bono Legal Aid Program which provides legal services to persons with incomes below the federal poverty guidelines. This is done by 18 attorneys (at present) in Delaware County who have agreed to donate at least 5 hours per year of legal services to individuals sent to them by Christian Ministries. In the first ten months of the Program's existence, it has referred 15 clients to the program. This program is unfunded and the attorneys involved are not compensated in any manner.

4. Civil Public Defenders. The Delaware County Courts employ 4 part-time civil public defenders. These attorneys provide representation in child support and visitation matters, primarily when indigent individuals are facing the possibility of incarceration. They also provide representation to low income persons involved in mental health detention and commitment proceedings as well as termination of parental rights proceedings. The Public Defender's office reports that they are not aware of these individuals being appointed to any cases other than those which statute or case law provide indigent individuals with the right to counsel. One of these individuals serves from time to time as Guardian ad Litem in certain proceedings. Eligibility is determined by the presiding judge's determination of need. They are paid through an appropriation from Delaware County (\$40/hour for out of court services; \$50/hour for representation in court).

5. Pro Bono Services Offered by Individual Attorneys. In addition to the services described above, private attorneys in Delaware County handle matters for individuals and for not-for-profit organizations and churches on a pro bono basis. At present, the extent of these voluntary services is unknown.

EXISTING SERVICE PROGRAM

Service/Program Name: Muncie Bar Association Legal Aid Program

Mailing Address: 201 East Jackson Street, Suite 400, Muncie, Indiana 47305

Phone: (765) 288-3651

Contact Person: Richard D. Hughes **Title:** Chairman

Sponsoring Agency: Muncie Bar Association **Phone:**

Agency Director:

Service/Program Information

Target Population: Homeless

Eligibility Requirements: None

***Estimate # of persons Served or Impacted:** 30 during 1998

Service Area: Delaware County

Type of Service/Program:

***Estimate of Expense per Year:** None

Funding Source(s): None

Service/Program Description: I see people on the first Wednesday of each month at the Drop In Center, a homeless center sponsored by Comprehensive Mental Health. I either handle problems, refer to other agencies or refer to other attorneys.

How does this organization participate in the coordination of services and what role do they play in the development of the plan? Could be combined with other programs and/or expanded to be more accessible and recruit volunteer attorneys to provide services. Muncie Bar Association should be involved in any program or plan.

EXISTING SERVICE PROGRAM

Service/Program Name: Pro Bono Legal Aid Program

Mailing Address: 401 East Main Street, Muncie, Indiana 47305

Phone: (765) 288-0601

Contact Person: Susan Hughes **Title:** Executive Director

Sponsoring Agency: Christian Ministries **Phone:** (765) 288-0601

Agency Director: Susan Hughes

Service/Program Information

Target Population: Lowest income level in our county

Eligibility Requirements: Client needs to be 125% of the poverty level

***Estimate # of persons Served or Impacted:** In the first 10 months we referred 15 clients to the program

Service Area: Delaware County

Type of Service/Program:

***Estimate of Expense per Year:** The program has no cost

Funding Source(s): 18 attorneys donate at least 5 hours per year of counsel to clients that we send to them

Service/Program Description:

How does this organization participate in the coordination of services and what role do they play in the development of the plan? CMDC developed this plan and follows up on the resolution.

ATTORNEYS WHO DO PRO BONO WORK IN GRANT COUNTY

ATTORNEY	DESCRIPTION OF PRO BONO WORK AND TIME ESTIMATE	YR.
Deborah S. Burke	4 hrs./mo for Legal Services Organization of Indiana & CASA training + 12 hrs/yr for 2 divorces	60
Bruce N. Elliott	5 hrs/mo for CASA program & 2 people	60
John J. Fihe	50 hrs/yr for 5 people	50
Todd Glickfield	15+hrs/yr for 3 people	15
Warren Haas	3 hrs/mo for CASA program; Marion-Grant County Humane Society, Inc.; Family Service Society, Inc.; Hands of Hope; Area 6 Community and Senior Services and/or Marion-Grant County Senior Center; guardian ad litem; District 6 pro bono committee work	100
Al Harker	2 hrs/mo for Salvation Army	24
Brian F. McLane	3 hrs/mo for Widowmite Ministries, Inc.	36
Michael J. Miller	1 hr/mo for 2 non-profit charitable organizations	12
David M. Payne	10 hrs/yr for 2 or 3 people	10
Matthew Patrick Ryan	10 hrs/yr for 2 or 3 people	10
Patrick N. Ryan	10 hrs/yr for 2 or 3 people	10
Anne C. Selby	8 hrs/mo for former clients unable to pay for child support modifications, etc.	96
Herbert A. Spitzer, Jr. Charles E. Herriman Phillip E. Stephenson Jerome T. Holderead Josef D. Musser Michael D. Conner Mark E. Spitzer	Family Service Society, Inc.	20
Jeffrey D. Todd	120 hrs/yr for YMCA & Habitat for Humanity	120
	Total	623

77 people listed for Grant Co.; 4 are general jurisdiction judges, 5 are retired or infirm, 3 are working full time for non-law entities, 7 are full time prosecutors, leaving 58 practioners. 8 hrs/yr/77 people; 10.7 hrs/yr/58 practitioners [31 hrs/yr/20 people listed]

HENRY COUNTY

Legal Services Organization of Indiana, Inc. provides services to Henry County. There are no other existing, organized services, programs or funding in Henry County at this time.

Private attorneys handle matters for individuals as well as not-for-profit organizations and churches on a pro bono basis. The extent of these volunteer services is not known at this time. A survey will be completed at a later date.

BLACKFORD COUNTY

J. Nicholas Barry, Representative

Blackford County is rather unique in its court structure and the jurisdiction for each court within the county. Essentially, we have two courts; a Circuit Court in which Judge Bade presides and a County Court in which Judge Forcum presides. The County Court has exclusive jurisdiction over criminal matters ranging only from misdemeanors to AD@ level felonies, small claims cases, and protective orders. I comment on this only because this unique jurisdiction, in my opinion, renders the Circuit Court the primary court where matters involving pro bono cases would be filed. Therefore, domestic cases, cases involving guardianships, and civil suits all take place before Judge Bade.

I spoke with Judge Bade and asked him whether there was a pro bono system in place or if there ever had been one within his court. His reply was, quite frank, that there was not one currently in place by the bar association, however, he has strong suspicions that attorneys have handled and continue to handle cases before him free of charge. He stated that this was merely a suspicion that he had due to the facts of some cases as they unfold before him. He made it clear to me that he would never ask whether the client had paid a retainer.

Judge Bade also stated that he never has asked an attorney to take a particular case for a person who is indigent. He believes, and I agree with him, that this might create an impression of unfair bias or prejudice in the mind of one of the parties involved. If someone approaches him or his court staff stating that they cannot afford an attorney, then they will hand to them a brochure containing a 1-800 number for Legal Services in Anderson. Whether they call the number or pursue representation through Legal Services is unknown.

After speaking with Patty Brown, Judge Bade's court reporter, I discovered that there once was a system in which the local members of the bar association provided pro bono legal services which now no longer exists. Essentially, the members were on a rotating system in which each took turns taking pro bono cases. She doubts that such a system for pro bono representation is still in place.

Finally, I talked with two local attorneys who I hold in high regards and who probably would be most vocal if a pro bono system were to be developed for Blackford County. Both probably have 15 years experience each in legal practice. The first attorney stated that he volunteers his own services on a yearly basis to those he feels need services yet cannot afford legal counsel. He stated that he screens these clients for finding who truly needs representation yet cannot afford to pay. When asked if a type of screening process would help in finding those who are truly indigent and not merely not wanting to pay, he stated that he felt it is every attorney's moral obligation to provide legal services to those without the ability to pay and it should not be mandated upon any attorney. He feels that if attorneys do not want to offer pro bono legal services that it should be left up to the discretion of the attorney.

The second attorney offered many of the same sentiments as those listed above. The difference is that he stated that he usually tries to take at least one pro bono case per year. He was against any type of preset screening system. He did not see anything wrong with the system of relying on attorneys to ensure that the courts and legal system are available for everyone. If an attorney bills the public for his or her services, then they have an ethical duty to make sure that the courts are available for everyone.

Summary:

- 1) There is no set system for pro bono legal services existing for the Blackford County Bar Association.
 - 2) In my opinion, the courts would be willing to participate in a pro bono screening process established by the Sixth District Pro Bono Committee or the Blackford County Bar Association. However, from what I could
- BLACKFORD COUNTY

gather from Judge Bade, he is not willing to head up such a system by being the sole system of referrals.

- 3) Local attorneys are providing free legal services for indigent persons. The amount of services varies as well as the types of services rendered.
- 4) There is a great deal of confusion as to what constitutes pro bono legal services. One of the attorneys I interviewed claimed that because a case he was handling was for the public good it was therefore pro bono services. While he would not answer my question as to whether the client could pay, I have strong suspicions that either he was paid a nominal amount or that the client had the ability to pay.
- 5) All is not lost, a pro bono system has existed in the past and run by the president of the Blackford County Bar Association.

4. 2000 Annual Plan -

**PROBLEM BARRIER NO. 1:
LACK OF LEGAL SERVICES AVAILABLE TO LOW INCOME PERSONS.**

Support Data: According to the Legal Needs Study of the Poor of Indiana prepared by United Way / Community Service Counsel of Central Indiana, less than 10% of the potential legal problems of Indiana's indigent persons are being addressed. Legal Services Organization of Indiana (LSOI), through its Anderson office, serves most of the counties in the Sixth Judicial District. LSOI Anderson has found that it is unable to provide significant assistance to more than 80% of the low income persons seeking legal services due to a lack of staff and funding. Furthermore, LSOI has only one office in the district which further limits access to the available assistance.

Recommended Actions to Address Problem: The Committee recommends a three-prong approach. First, the Committee and the Plan Administrator would seek to establish or expand pro bono programs in each county in the district. Private attorneys would be encouraged to handle at least two cases per year or contribute eight hours annually in free legal services. The Plan Administrator, or an LSOI staff person, would screen service requests to determine financial eligibility, ascertain the nature of the legal problems, and make referrals to participating private attorneys.

Second, the Committee would recommend funding for specialized representation involving problems which could not be handled by participating private attorneys. In lieu of donating their time, private attorneys in the area would be given the option of making a financial contribution to the district pro bono effort. The suggested contribution would be four times the attorney's hourly rate. These funds, along with IOLTA moneys, would be used to hire additional staff for LSOI or to contract with other counsel skilled in handling legal matters outside the expertise of most private attorneys. Cases involving public benefits, income maintenance, and public housing are likely to be referred to staff or contract attorneys.

Third, paralegal students at Ivy Tech State College, Ball State University and other institutions of higher learning would be recruited to help with research, intake and screening. The students would perform a valuable function for the pro bono effort while they gain practical, real life experience.

Coordination: The Committee envisions employing a Plan Administrator working out of the LSOI Anderson office. The Plan Administrator would assist local bar associations establish county pro bono programs and recruit attorneys. The Plan Administrator, perhaps with other LSOI staff, would screen requests for pro bono services and serve as the communication link with participating private attorneys. The Plan Administrator would also determine the cases to be handled by LSOI staff or contract attorneys paid by funds generated through the district pro bono effort. Recognition of volunteer attorneys would also be overseen by the Plan Administrator and the 6th District Pro Bono Committee.

Expected Results: Through the district pro bono effort, an increase of least 30% to 40% would be anticipated in the number of low income persons receiving legal assistance at little or no cost.

Benchmarks: At the present time, approximately 450-500 cases a year, requiring substantial services, are handled by LSOI and private pro bono attorneys in the district. A 30% increase in legal assistance to the poor would

represent an additional 140-150 persons receiving services.

Cost Associated with this Program: The estimated cost of this program would be \$107,300.00. Funding and resources would be obtained from IOCTA, contributions from private attorneys, the communities in the district, and in-kind donations from social service agencies.

Budget: (See attached Budget Form)

PROBLEM BARRIER #2:

To increase the participation of sitting trial judges in meeting their professional responsibility for supporting and enhancing pro bono services within their individual counties and the 6th District as a whole.

Support Data: Survey responses of Committee members regarding existing pro bono programs in the counties of the District revealed no designated role of the judiciary and minimal judicial activity in this area.

Coordination: The coordination of the various judicial pro bono activities will be handled by the District 6 Plan Administrator (who will work with the Legal Services Organization of Indiana, Inc. and be hired through monies distributed to the District from IOLTA) or in the alternative, the District Judge designated by the Indiana Supreme Court.

Expected Results: We would expect to see a specific designated role of the District's trial judges in areas of promoting, recruiting, training, accommodating and or recognizing pro bono attorneys and services in each judge's respective county or District 6 as a whole.

Bench Marks: According to information informally gathered by Committee members, no formal or structured activities by the trial judges were noted although some activities to a degree certainly exist. The success of the program will be demonstrated by an annual report of each trial judge regarding such activities.

Cost Associated With This Program: The estimated cost of this program would be that cost for funding a Plan Administrator position. Other costs such as recognition, ceremonies, certificates or expenses of monitoring or reporting activities will be supplemented by support of local communities or local bench and bar.

Budget: (See attached Budget Form)

PROBLEM BARRIER #3:

To increase the participation of full-time prosecutors and full-time deputy prosecutors in meeting their professional responsibility for supporting and enhancing pro bono services within their individual counties and the 6th District as a whole.

[Part-time deputy prosecutors are omitted from this Problem Barrier - it is assumed that they have AChinese Wall Agreements@ with the County Office, so they would not need special provisions.]

Support Data: Survey responses of Committee members regarding existing pro bono programs in the counties of the District revealed no designated role of full-time prosecutors nor of the full-time deputy prosecutors. At least some full-time prosecutors and full-time deputy prosecutors state they are prohibited from participating in a pro bono program by **IC 33-14-7-19.6 - Election of full-time status**, which states, in part

- (a)
- (b) In the event an election to be a full-time prosecuting attorney is made, the prosecuting attorney shall:
 - (1) Devote the prosecuting attorney=s full professional time to the prosecuting attorney=s office; and
 - (2) Not engage in the private practice of law.
- (c)

Coordination: The coordination of the various full-time pro bono activities will be handled by the District 6 Plan Administration (who will work with the Legal Services Organization of Indiana, Inc. and be hired through money distributed to the District from IOLTA) or in the alternative, the District Judge designated by the Indiana Supreme Court.

Expected Results: Rather than rendering pro bono services to people of limited means, the full-time prosecutors and full-time deputy prosecutors will be expected to render documented public interest legal service by providing professional services at no fee to public service or charitable groups or organizations, by service in activities for improving the law, the legal system or the legal profession, and by financial support for organizations that provide legal services to persons of limited means with each full-time prosecutor=s or full-time deputy=s county or District 6 as a whole.

Bench Marks: According to information informally gathered by Committee members, no formal structured activities by the full-time prosecutors or full-time deputy prosecutors were noted although some activities exist to a degree. The success of the program will be demonstrated by an annual report to be prepared by the elected prosecutor of each county within District 6.

Cost Associated With This Program: The estimated cost of this program would be the costs for funding a Plan Administrator position. Other costs such as recognition ceremonies, certificates, or expenses of monitoring or reporting activities will be supplemented by support of local communities or local bench and bar.

Budget: (See attached Budget Form)

BUDGET FORM

COST CATEGORY	IOLTA \$	OTHER \$	DONATE D	TOTAL
A. Personnel Costs				
1. Lawyers				
2. Paralegals	\$21,000			\$21,000
3. Others				
4. Salary Subtotal	21,000			21,000
5. Employee Benefits	5,000			5,000
6. Total Personnel Costs	\$26,000			\$26,000
B. Non Personnel				
1. Space	\$ 5,000			\$ 5,000
2. Equipment Rental	100			100
3. Office Supplies	400			400
4. Telephone	2,300			2,300
5. Travel	3,500			3,500
6. Training	1,000			1,000
7. Library	2,000			2,000
8. Insurance				
9. Dues and Fees				
10. Audit				
11. Litigation	600			600
12. Property Acquisition				
13. Purchase Payments				
14. Contact Services to Client	65,000			65,000
15. Contract Services to				

COST CATEGORY	IOLTA \$	OTHER \$	DONATED	TOTAL
Program				
16. Other (Pro Bono Awards)	2,000			2,000
17. Total Non Personnel Costs	\$81,300			\$81,300
C. Total Expenditures	\$107,300			\$107,300

